

10-04-01  
UTILITY PATENT APPLICATION TRANSMITTAL(CLAIMING PROVISIONAL APPLICATION PRIORITY)  
(New Nonprovisional Applications Under 37 CFR § 1.53(b))Attorney Docket No.  
60024-001210/20/01  
11054 U.S. PTO11002 U.S. PTO  
09/970398  
10/02/01  
A

## TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith is the patent application of ( ) application identifier or (X) first named inventor, Jiva Gandhara Devoe, et al., entitled INTELLIGENT DYNAMIC ROUTE SELECTION BASED ON ACTIVE PROBING OF NETWORK OPERATIONAL CHARACTERISTICS, for a(n):

(X) Original Patent Application that claims the benefit of prior U.S. Provisional Application 60/288,398, filed May 2, 2001.

( ) Continuing Application (prior application not abandoned):  
 ( ) Continuation ( ) Divisional ( ) Continuation-in-part (CIP)  
 of prior application No: \_\_\_\_\_ Filed on: \_\_\_\_\_

( ) A statement claiming priority under 35 USC § 120 has been added to the specification.

Enclosed are:

(X) Specification 41 Total Pages; (X) Drawing(s) 6 Total Sheets; (X) Cover Sheet 1 Page  
 (X) Oath or Declaration: 3 Pages  
 (X) A Newly Executed Combined Declaration and Power of Attorney:  
 (X) Signed. ( ) Unsigned. ( ) Partially Signed.  
 ( ) A Copy from a Prior Application for Continuation/Divisional (37 CFR § 1.63(d)).  
 ( ) Incorporation by Reference. The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied, is considered as being part of the disclosure of the accompanying application and is hereby incorporated herein by reference in its entirety for all purposes.  
 ( ) Signed Statement Deleting Inventor(s) Named in the Prior Application. (37 CFR § 163(d)(2)).  
 ( ) Power of Attorney. (X) Return Receipt Postcard.  
 ( ) Associate Power of Attorney. (X) A Check in the amount of \$977.00 for the Filing Fee.  
 ( ) Preliminary Amendment. ( ) Information Disclosure Statement and Form PTO-1449.  
 (X) Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i)  
 (X) A Duplicate Copy of this Form for Processing Fee.  
 ( ) A Certified Copy of Priority Documents (if foreign priority is claimed).  
 ( ) Applicant(s) is entitled to small entity status. See 37 CFR 1.27.  
 (X) Statement(s) of Status as a Small Entity Filed in Prior Application, Status Still Proper and Desired.  
 (X) Recordation of Assignment Cover Sheet and executed Assignment.  
 (X) Other: Fee Transmittal

CLAIMS AS FILED				
FOR	NO. FILED	NO. EXTRA	RATE	FEE
Total Claims	55	35	\$9.00	\$ 315.00
Independent Claims	9	6	\$42.00	\$ 252.00
Multiple Dependent Claims (if applicable)				\$0.00
Assignment Recording Fee				\$ 40.00
Basic Filing Fee				\$ 370.00
			Total Filing Fee	\$ 977.00

Charge \$ \_\_\_\_\_ to Deposit Account 50-1302 pursuant to 37 CFR § 1.25. Throughout the pendency of this application, please charge any additional fees, including any required extension of time fees, and credit all overpayments to deposit account 50-1302. A duplicate of this sheet is enclosed.

Respectfully submitted,

By: John D. Henkhaus  
John D. Henkhaus, Reg. No. 42,656Date: 10/1/01

Correspondence Address:

Hickman Palermo Truong & Becker, LLP  
 1600 Willow Street  
 San Jose, California 95125-5106  
 Telephone: (408) 414-1080  
 Facsimile: (408) 414-1076

I hereby certify that this is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10 on the date indicated below and is addressed to:

Commissioner for Patents  
 Box Patent Application  
 Washington, D.C. 20231

By: Tirena Say

Typed Name: Tirena Say

Express Mail Label No.: EL734970873US

Date of Deposit: October 2, 2001

29989

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**REQUEST AND CERTIFICATION  
UNDER  
35 U.S.C. 122(b)(2)(B)(i)**

First Named Inventor	Jiva Gandhara DEVOE, et al.
Title	INTELLIGENT DYNAMIC ROUTE SELECTION BASED ON ACTIVE PROBING OF NETWORK OPERATIONAL CHARACTERISTICS
Atty. Docket Number	60024-0012

I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

10/2/01  
Date

John D. Henkhaus  
Signature

John D. Henkhaus, Reg. No. 42,656  
Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(a). The information is used by the public to request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that request). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231

# FEE TRANSMITTAL

## for FY 2002

Patent fees are subject to annual revision.  
 Small Entity payments must be supported by a small entity statement,  
 otherwise large entity fees must be paid. See Forms PTO/SB/09-12.  
 See 37 C.F.R. §§ 1.27 AND 1.28

TOTAL AMOUNT OF PAYMENT (\$ 977.00)

### Complete if Known

Application Number	NYA
Filing Date	October 2, 2001
First Named Inventor	Jiva Gandhara DEVOE, et al.
Examiner Name	NYA
Group/Art Unit	NYA

Attorney Docket No. 60024-0012

### METHOD OF PAYMENT (check one)

1.  Throughout the pendency of this application, please charge any additional fees, including any required extension of time fees, and credit all overpayments to deposit account 50-1302. A duplicate of this sheet is enclosed.

Deposit Account Number 50-1302

Deposit Account Name Hickman Palermo Truong & Becker, LLP

2.  Payment Enclosed:

Check  Money Order  Other

3.  Applicant(s) is entitled to small entity status.

See 37 CFR 1.27

### FEE CALCULATION (continued)

#### 3. ADDITIONAL FEES

Large Entity Fee Code	Small Entity Fee Code	Fee \$	Fee \$	Fee Description	Fee Paid
105	130	205	65	Surcharge – late filing fee or oath	
127	50	227	25	Surcharge – late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	310	219	155	Notice of Appeal	
120	310	220	155	Filing a brief in support of an appeal	
121	270	221	135	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,210	241	605	Petition to revive – unintentional	
142	1,210	242	605	Utility issue fee (or reissue)	
143	430	243	215	Design issue fee	
144	580	244	290	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	240	126	240	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	40.00
146	690	246	345	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	690	249	345	For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify) _____					
Other fee (specify) _____					

\*Reduced by Basic Filing Fee Paid SUBTOTAL (3) (\$ 40.00)

### SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	John D. Henkhaus	Registration No. (Attorney/Agent)	42,656	Telephone	(408) 414-1080
Signature	<i>John D. Henkhaus</i>			Date	10/2/01

### WARNING:

Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.